(Slip Opinion)

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SUPREME COURT OF THE UNITED STATES

No. 71-651

State of California, Petitioner, *v.* Judith Krivda and Roger T. Minor. | On Writ of Certiorari to the Supreme Court of California.

[October 24, 1972]

PER CURIAM.

On the basis of evidence obtained in a police search of respondents' trash, respondents were charged with possession of marihuana in violation of § 11530 of the California Health and Safety Code. The Supreme Court of California affirmed the superior court's judgment of dismissal and order suppressing the evidence on the grounds that, under the circumstances of this case, respondents "had a reasonable expectation that their trash would not be rummaged through and picked over by police officers acting without a search warrant." *People* v. *Krivda*, 5 Cal. 3d 357, 366–367, 96 Cal. Rptr. 62, 68, 486 P. 2d 1262, 1268 (1971) (*en banc*). We granted certiorari. 405 U. S. 1039.

After briefing and argument, however, we are unable to determine whether the California Supreme Court based its holding upon the Fourth and Fourteenth Amendments to the Constitution of the United States or upon the equivalent provision of the California Constitution, or both. In reaching its result in this case, the California court cited pertinent excerpts from its earlier decision in *People* v. *Edwards*, 71 Cal. 2d 1096,

80 Cal. Rptr. 663, 458 P. 2d 713 (1969) (*en banc*), which relied specifically upon both the state and federal provisions. 5 Cal. 3d, at 367, 96 Cal. Rptr., at 69, 486 P. 2d, at 1269. Thus, as in *Mental Hygiene Dept.* v. *Kirchner*, 380 U. S. 194, 196–197 (1965), "[w]hile we might speculate from the choice of words used in the opinion, and the authorities cited by the court, which provision was the basis for the judgment of the state court, we are unable to say with any degree of certainty that the judgment of the California Supreme Court was not based on an adequate and independent nonfederal ground." We therefore vacate the judgment of the Supreme Court of California and remand the cause to that court for such further proceedings as may be appropriate. *Mental Hygiene Dept.* v. *Kirchner*, *supra*; *Minnesota* v. *National Tea Co.*, 309 U. S. 551 (1940); *State Tax Commission* v. *Van Cott*, 306 U. S. 511 (1939). We intimate no view on the merits of the Fourth and Fourteenth Amendment issue presented.